

**Notice of Allowability**

Application No.

09/508,979

Applicant(s)

HIGGINS ET AL.

Examiner

Art Unit

Cynthia Collins

1638

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the after final amendment filed October 27, 2004.
2. ☒ The allowed claim(s) is/are 1,5,6,8,14-30,32-35,37-41,47-49,51-54,56,57,64,88,90-94,96-101,103-106 and 108-110 (renumbered 1-59).
3. ☒ The drawings filed on 29 July 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                               |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>11/04</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                                       |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                 |
|   | 9. <input type="checkbox"/> Other _____.  |

Art Unit: 1638

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on November 29, 2004, Gary Gershik requested an extension of time for two MONTH(S) and authorized the Director to charge Deposit Account No. 03-3125 the required fee of \$ \$420.00 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Claims 42-46, 65, 67, 69, 89, 102, 107, and 112-115 are cancelled.

In claim 1, line 7, delete "expressing in the seed of the".

In claim 1, line 7, insert "introducing into a" before "plant".

In claim 1, line 13, insert "wherein the nucleotide sequence is expressed in the seed" before " ; ".

In claim 1, line 13, insert "and" after " ; ".

Art Unit: 1638

In claim 1, line 19, delete the “and” after “nitrogen,”.

In claim 1, line 20, delete “(iii) selecting a” and insert “wherein the”.

In claim 1, line 20, replace “having” with “has”.

In claim 1, line 24, insert “and” after “expressed,”.

In claim 16, line 2, replace “comprises the” with “is a”.

In claim 19, line 2, replace “comprises” with “sequence is”.

In claim 19, line 3, insert “gene” before “promoter”.

In claim 21, line 3, delete “expressing in the seeds of the”.

In claim 21, line 3, insert “introducing into a” before “plant”.

In claim 21, line 7, replace “said” with “the”.

In claim 21, line 11, insert “wherein the nucleotide sequence is expressed in the seeds”  
before “;”.

In claim 21, line 11, insert “and” after “;”.

In claim 21, line 13, delete “and”.

In claim 21, line 14, delete “(iii) selecting a” and insert “wherein the”.

In claim 21, line 14, replace “having” with “has”.

In claim 21, line 17, insert “and” after “gene,”.

In claim 22, line 2, replace “the” before “pea” with “a”.

Art Unit: 1638

In claim 22, line 2, insert “sequence” after “promoter”.

In claim 23, line 2, replace “chimeric gene further comprises the” with “promoter sequence is a”.

In claim 23, line 2, insert “sequence” after “gene promoter”.

In claim 23, line 3, insert “the chimeric gene further comprises a pea vicilin gene” after “and”.

In claim 23, line 3, replace “sequences” with “sequence”.

In claim 25, line 2, insert “sequence” after “gene promoter”.

In claim 26, line 2, replace “chimeric gene further comprises the” with “promoter sequence is a”.

In claim 26, line 3, insert “sequence” after “gene promoter”.

In claim 26, line 3, insert “the chimeric gene further comprises a” after “and/or”.

In claim 26, line 4, replace “sequences” with “sequence”.

In claim 28, line 4, delete “expressing in the seeds of said”.

In claim 28, line 4, insert “introducing into a” before “plant”.

In claim 28, line 10, insert “wherein the nucleotide sequence is expressed in the seeds; and” before “:”.

In claim 28, line 10, delete “:”.

Art Unit: 1638

In claim 28, line 12, delete “and”.

In claim 28, line 14, delete “(iii) selecting a” and insert “wherein the”.

In claim 28, line 14, replace “having” with “has”.

In claim 28, line 16, insert “and” after “gene,”.

In claim 29, line 2, replace “the” before “pea” with “a”.

In claim 29, line 2, insert “sequence” after “gene promoter”.

In claim 30, line 2, replace “chimeric gene further comprises the” with “promoter sequence is a”.

In claim 30, line 2, insert “sequence” after “gene promoter”.

In claim 30, line 3, insert “the chimeric gene further comprises a pea vicilin gene” after “and”.

In claim 30, line 3, replace “sequences” with “sequence”.

In claim 33, line 3, delete “expressing in the seeds of said”.

In claim 33, line 3, insert “introducing into a” before “plant”.

In claim 33, line 7, insert “wherein the nucleotide sequence is expressed in the seeds” before “;”.

In claim 33, line 11, delete “selecting a” and insert “wherein the”.

In claim 33, line 11, replace “having” with “has”.

Art Unit: 1638

In claim 34, line 2, replace “the” before “pea” with “a”.

In claim 34, line 2, insert “sequence” after “gene promoter”.

In claim 35, line 2, replace “chimeric gene further comprises the” with “promoter sequence is a”.

In claim 35, line 2, insert “sequence” after “gene promoter”.

In claim 35, line 3, insert “the chimeric gene further comprises a pea vicilin gene” after “and”.

In claim 35, line 3, replace “sequences” with “sequence”.

In claim 38, line 3, delete “expressing in the seeds of said”.

In claim 38, line 3, insert “introducing into a” before “plant”.

In claim 38, line 9, insert “wherein the nucleotide sequence is expressed in the seeds” before “;”.

In claim 38, line 9, insert “and” after “;”.

In claim 38, line 10, delete “and”.

In claim 38, line 11, delete “(iii) selecting a” and insert “wherein the”.

In claim 38, line 11, replace “having” with “has”.

In claim 38, line 13, insert “and” after “expressed,”.

In claim 39, line 2, replace “the” before “pea” with “a”.

In claim 39, line 2, insert “sequence” after “gene promoter”.

Art Unit: 1638

In claim 40, line 2, replace “chimeric gene further comprises the” with “promoter sequence is a”.

In claim 40, line 2, insert “sequence” after “gene promoter”.

In claim 40, line 3, insert “the chimeric gene further comprises a pea vicilin gene” after “and”.

In claim 40, line 3, replace “sequences” with “sequence”.

In claim 47, line 4, delete “expressing in the seeds of said”.

In claim 47, line 4, insert “introducing into a” before “plant”.

In claim 47, line 10, insert “wherein the nucleotide sequence is expressed in the seeds” before “;”.

In claim 47, line 10, insert “and” after “;”.

In claim 47, line 11, delete “and”.

In claim 47, line 12, delete “(iii) selecting a” and insert “wherein the”.

In claim 47, line 12, replace “having” with “has”.

In claim 47, line 15, insert “and” after “gene,”.

In claim 48, line 2, replace “the” before “pea” with “a”.

In claim 48, line 2, insert “sequence” after “gene promoter”.

In claim 49, line 2, replace “chimeric gene further comprises the” with “promoter sequence is a”.

Art Unit: 1638

In claim 49, line 2, insert “sequence” after “gene promoter”.

In claim 49, line 3, insert “the chimeric gene further comprises a pea vicilin gene” after “and”.

In claim 49, line 3, replace “sequences” with “sequence”.

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In claim 52, line 3, delete “expressing in the seeds of said”.

In claim 52, line 3, insert “introducing into a” before “plant”.

In claim 52, line 9, insert “wherein the nucleotide sequence is expressed in the seeds” before “;”.

In claim 52, line 9, insert “and” after “;”.

In claim 52, line 11, delete “and”.

In claim 52, line 12, delete “selecting a” and insert “wherein the”.

In claim 52, line 12, replace “having” with “has”.

In claim 52, line 14, insert “and” after “expressed,”.

In claim 53, line 2, replace “the” before “pea” with “a”.

In claim 53, line 2, insert “sequence” after “gene promoter”.

In claim 54, line 2, replace “chimeric gene further comprises the” with “promoter sequence is a”.

In claim 54, line 2, insert “sequence” after “gene promoter”.



Art Unit: 1638

In claim 54, line 3, insert “the chimeric gene further comprises a pea vicilin gene” after “and”.

In claim 54, line 3, replace “sequences” with “sequence”.

In claim 64, line 2, delete “42,”.

In claim 90, lines 4-5, delete “expression of the chimeric gene in the seed increases or decreases”.

In claim 90, line 5, insert “is increased or decreased” after “seed”.

In claim 91, line 1, delete “or claim 102”.

In claim 91, lines 4-5, delete “expression of the chimeric gene in the seed modifies”.

In claim 91, line 5, insert “is modified” after “seed”.

In claim 92, line 4, delete “expression of the chimeric gene in the seed decreases”.

In claim 92, line 5, insert “is decreased” after “seed”.

In claim 93, lines 3-4, delete “expression of the chimeric gene in the seed increases or decreases”.

In claim 93, line 5, insert “is increased or decreased” after “seed”.

In claim 94, lines 3-4, delete “expression of the chimeric gene in the seed modifies”.

Art Unit: 1638

In claim 94, line 5, insert “is modified” after “seed”.

In claim 96, line 2, replace “chimeric gene further comprises” with “promoter sequence is”.

In claim 97, line 2, replace “is the” with “sequence is a”.

In claim 97, line 2, replace “vicilin promoter” with “vicilin gene promoter sequence”.

In claim 98, line 2, replace “is the” with “sequence is a”.

In claim 98, line 2, replace “glutenin promoter” with “glutenin gene promoter sequence”.

In claim 100, line 2, replace “is the” with “is a”.

In claim 101, lines 1-2, delete “or claim 102,”.

In claim 103, line 3, delete “expressing in the seed of the”.

In claim 103, line 3, insert “introducing into a” before “plant”.

In claim 103, line 11, insert “wherein the nucleotide sequence is expressed in the seed” before “;”.

In claim 104, line 4, delete “expressing in the seeds of said”.

In claim 104, line 4, insert “introducing into a” before “plant”.

Art Unit: 1638

In claim 104, line 10, insert “wherein the nucleotide sequence is expressed in the seeds” before “;”.

In claim 105, line 3, delete “expressing in the seeds of said”.

In claim 105, line 3, insert “introducing into a” before “plant”.

In claim 105, line 9, insert “wherein the nucleotide sequence is expressed in the seeds” before “;”.

In claim 106, line 3, delete “expressing in the seeds of said”.

In claim 106, line 3, insert “introducing into a” before “plant”.

In claim 106, line 9, insert “wherein the nucleotide sequence is expressed in the seeds” before “;”.

In claim 108, line 4, delete “expressing in the seeds of said”.

In claim 108, line 4, insert “introducing into a” before “plant”.

In claim 108, line 10, insert “wherein the nucleotide sequence is expressed in the seeds” before “;”.

In claim 109, line 3, delete “expressing in the seeds of said”.

In claim 109, line 3, insert “introducing into a” before “plant”.

In claim 109, line 9, insert “wherein the nucleotide sequence is expressed in the seeds” before “;”.

Art Unit: 1638

***Remarks***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Collins whose telephone number is (571) 272-0794. The examiner can normally be reached on Monday-Friday 8:45 AM -5:15 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on (571) 272-0804. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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